

Freehills Patent & Trade Mark Attorneys
Melbourne

Received - 8 NOV 2004

dated Y/N By: K
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d to: 134



Australian Government

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5 November 2004

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Your Ref: M80227801:TJH:ss

Examiner's first report on patent application no. 97241/01
by DEPUY PRODUCTS, INC

Dear Madam/Sir,

I am replying to the request for normal examination. I have examined the application and I believe that there are lawful grounds of objection to the application. These grounds of objection are:

1. There is no Notice of Entitlement on file. You will need to file one because an application without a Notice of Entitlement cannot be accepted.
2. Each of the claims 1, 11, 18 and 25 is not clear because it attempts to define the invention by the desired result to be achieved. See the words "surface features being positioned to optimally transfer load".
3. Claims 1, 8, 11, 18 and 25 at least are not novel/inventive when compared to each of the following documents cited against corresponding foreign applications.

US 3894297

US 4865608

~~EP 965312~~

~~US 4031571~~

~~EP 169976~~

You have 21 months from the date of this report to overcome all my objection(s) otherwise your application will lapse. You will need to pay a monthly fee for any response you file after 12 months from the date of this report.

Yours faithfully,

Mr. SWAYAM CHINTAMANI
Examiner of Patents, Section B4
Telephone: (02) 6283 2202

Serial No. 101610,092 Docket No. DEP 45220N By: JSW
Application of: John Serbousek et al Mailed: December 22, 2004
Entitled: Prosthesis with feature aligned to Trabeculae

THE FOLLOWING HAS BEEN RECEIVED IN THE U.S. PATENT OFFICE ON THE DATE STAMPED HEREON:

- | | |
|--|---|
| <input type="checkbox"/> Oath or Declaration | <input type="checkbox"/> Drawings <u> </u> sheets |
| <input type="checkbox"/> Assignment | <input type="checkbox"/> MPEP 609/ <u> </u> |
| <input type="checkbox"/> Response | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Fee Transmittal | <input type="checkbox"/> Brief |
| <input type="checkbox"/> Charge to Deposit Account 10-0750 | <input type="checkbox"/> Priority Document |
| <input type="checkbox"/> Amendment | <input type="checkbox"/> Status Inquiry |
| <input type="checkbox"/> Extension of Time | <input type="checkbox"/> Sequence Listings/Diskette |
| <input type="checkbox"/> Issue Fee Transmittal | <input type="checkbox"/> Biological Deposit Declaration |
| <input type="checkbox"/> PCT Filing <u> </u> | <input checked="" type="checkbox"/> Other <u>Postcard</u> |
| <input checked="" type="checkbox"/> IDS-Form 1449 | <input checked="" type="checkbox"/> <u>Submission under MPEP 609D</u> |
| <input checked="" type="checkbox"/> Terminal Disclaimer | <input checked="" type="checkbox"/> <u>Statement under 37 C.F.R.</u> |
| | <u>1.97(e)</u> |

RECEIVED
DEC 28 2004
18J PAT. DKT. SECTION

Docket No. DEP 652CON

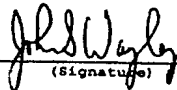
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Serbousek, John, et al
Serial No. : 10/670,092 Art Unit: 3732
Filed : September 24, 2003 Examiner: Candice C. Melson
For : Prosthesis with Feature Aligned to Trabeculae

I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope addressed
to: Commissioner For Patents, Alexandria, VA 22313-1450 on

December 22, 2004
(Date of Deposit)

John S. Wagley
(Name of applicant, assignee, or Registered Representative)


(Signature)

December 22, 2004
(Date of Signature)

Commissioner for Patents
Alexandria, VA 22313-1450

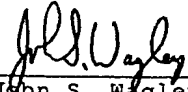
STATEMENT UNDER 37 C.F.R. §1.97(e)

In accordance with 37 C.F.R. §1.97(e), certification is hereby
made that:

☒ Each item of information contained in the information
disclosure statement was first cited in any communication from a
foreign patent office in a counterpart foreign application not more
than three months prior to the filing of the Information Disclosure
Statement; or

☐ No item of information contained in the Information
Disclosure Statement was cited in a communication from a foreign
patent office, in a counterpart foreign application, and, to the
knowledge of the undersigned after making reasonable inquiry, no item

of information contained in this Information Disclosure Statement,
was known to any individual designated in §1.56(c) more than three
months prior to the filing of this Information Disclosure Statement.



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DATED: December 22, 2004